UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF

SEP 28 2001

Basic Packaging Machinery Corp.
642 Sugar Lane
Elyria, OH 44035

This letter is intended to notify you of a proposed approach to preparing a volumetric ranking and waste-in list for the Chemical Recovery Systems Superfund Site (CRS Site or Site) located in Elyria, Ohio. Based on the evidence currently available to the United States Environmental Protection Agency, the enclosed document has been submitted to the Agency by the Agency's PRP search contractor, Techlaw, to indicate how Techlaw would approach the task of preparing such a ranking and list. The evidence includes admissions made by Responsible Parties, witness statements, accounting ledgers, and other documentary evidence found in the files of the Chemical Recovery Systems company. The Agency invites you to provide your comments on the proposed approach, should you wish to do so.

If you wish to provide comments, please direct those comments to Thomas C. Nash, mailcode C-14J, at the address given on the letterhead above. Please provide any comments that you may have no later than October 15, 2001, as the Agency wishes to move as expeditiously as possible at this Site with the goal of minimizing transaction costs for all parties involved. The Agency will consider all significant comments received and finalize the approach so that the ranking, list, and a non-binding allocation of responsibility may be developed as soon as possible. As this task is completed, the agency will be in a better position to consider the possibility of entering into early settlements with potentially responsible parties at the Site, in accordance with the Agency's policies, thereby further reducing transaction costs for all concerned at this Site. If you have questions or comments, I can be reached by phone at 312-886-0552, by facsimile at 312-886-0552, or by email at nash.thomas@epa.gov

Sincerely,

Thomas C. Nash
Associate Regional Counsel

cc: Deena Sheppard-Johnson
Gwen Massenburg

-REVISED DRAFT-
Waste-In List / Volumetric Ranking
Technical Approach
Chemical Recovery Systems, Elyria Ohio

Presented by: TechLaw, Inc.
September 28, 2001

Introduction:
Under the U.S. Environmental Protection Agency (EPA) Enforcement Support Services (ESS) Contract No. 68-W-00-083, Task Order 10, TechLaw, Inc. (TechLaw) was tasked to present an approach for conducting a Waste-In List / Volumetric Ranking analysis for the Chemical Recovery Systems (CRS) site in Elyria, Ohio.

The proposal provides a uniform, equitable, and consistent methodology for preparing volumetric information for Potentially Responsible Parties (PRPs). Generally, the approach starts with a straight calculation of all volumetric information on hand, which primarily consists of the "Dirty Inventory" (DI). Since the DI does not appear to comprehensively reflect all site activities, additional steps may be necessary to achieve a more uniform allocation. A review of accounting records, including Accounts Receivable (AR) and Purchase / Payment Journals, suggests proxy values from these records can be established to fill data gaps left by the DI sheets.

Assuming a reasonable evidentiary nexus can be established with the site, quantities and volumetric share will be calculated for all entities which appear on Dirty Inventory, Accounts Receivable, and Purchase / Payment Journals, witness statements, 104(e) responses, and any other reliable sources of evidence available, regardless if a currently viable PRP associated with said entity has been established. A reasonable evidentiary nexus can include, but is not limited to, the following:

- a PRP's presence on the Dirty Inventory
- Accounts Receivable ledger entries with the line item "Sludge Disposal"
- Purchase / Payment Journal line item entries for "Scrap Solvent for Reclamation"
- Other corroborative evidence including, but not limited to, witness statements, affidavits, 104(e) response content, and miscellaneous correspondence located in the site files.

1. Calculation of quantities present in Dirty Inventory

Background on "Dirty Inventory"
The DI consists of five sets of typewritten lists that were apparently compiled between 1979 and 1980, with entries dating back to what is presumed to be December of 1973. The lists were typed on yellow legal paper and contain entries, each of which names a company, date, and type and quantity of material present.

The lists appear to be "working" lists of chemicals as they came in and/or were removed from the site. When a chemical was removed from the list, it was lined out using a pencil or a pen. When an entry was added, it was typed at the bottom of the list. The lists were periodically retyped. The newer list contained all of the entries from the previous list that were not lined out, and also included new entries that were added during said period. The first of the five lists contains a handwritten note that it was "retyped 12/13/79." Subsequent lists contain similar handwritten references that indicate they were retyped on 6/25/80, 7/17/80, and 10/28/80. What appears to be the final list of the set contains no handwritten reference.

To accurately quantify the DI lists, it is necessary to omit tabulation of redundant entries on subsequent DI lists. It is also necessary to include new and unique entries which appear on subsequent lists.

Volumetric Calculations

Standard volumetric calculations will be conducted on the DI utilizing assumptions and guidance presented in OSWER Directive No. 9835.16, *EPA Final Guidance on Preparing Waste-in Lists and Volumetric Rankings for Release to Potentially Responsible Parties (PRPs) under CERCLA*, dated February 20, 1991.

Entries on the DI list will be converted to gallons utilizing standard EPA Conversion Factors as described in Attachment 2 of OSWER Directive No. 9835.16. Conversion factors which appear to be salient at the CRS site include:

1 drum = 55 gallons
1 pail = 5 gallons
1 pound = 0.125 gallons

The Waste-In List / Volumetric Ranking will be conducted in an EPA approved database format, and will include the following information: PRP Name; Date of Transaction; Quantity; and Type of Material. Data will be entered verbatim as shown on the evidentiary documents. An additional field for Quantity (adjusted to gallons, as the common unit) will also be included. Data will be presented in a variety of reports, including an alphabetical sort and a volumetric sort, and will include the total gallons contributed by each PRP.

Adjustments

Based on initial review of the DI, case specific assumptions likely will be required to ensure an accurate and equitable calculation. Specific examples of adjustments are noted below. In the case of any judgment or assumption made, the change will be documented and summarized as a footnote or attachment to the final calculations.

Specific examples of adjustments include:

- Certain entries do not appear to correspond to the shipment of hazardous chemicals. Examples include entries for an "I-Beam," a "drum crusher," empty or "MTS" drums, reconditioned drums, etc. These entries will be omitted from the calculation.
- Similarly, certain shipments of chemicals appear to be non hazardous. Examples include "calcium chloride flakes," "calcium chloride," etc. These entries will be omitted from the calculation.
- The EPA will evaluate disputed quantities / entries on the list on a case by case basis. For example, "Yenkin Majestic" has an entry for 6,000 "drs." of xylene (a one day transaction of 330,000 gallons), which represents an unrealistic quantity and does not correlate to similar ledger entries by that, or similar, PRPs. In this case, it is assumed that the transaction was for 6,000 *gallons* of xylene. As stated above, any change, omission, or adjustment will be documented and summarized in the footnotes. Notwithstanding the above example, entries will generally be strictly entered and evaluated/changed later as necessary.

2. Extrapolated Calculation of Accounts Receivable

Review of the DI suggests that it does not comprehensively reflect all waste contributions to the site over the life of the facility. As stated above, the DI contains entries from 1973 to 1980, with the bulk of the entries focused in the 1979 to 1980 time frame. However, comprehensive accounting records dating back from the early 1960s to the early 1980s are present. To achieve an equitable allocation, it may be necessary to assign proxy values for dollar transactions to account for the data gaps.

Background on Accounts Receivable

The AR ledgers are oversized record keeping books that are located near the back of the General Ledger for the respective year. They typically contain the company name, amount of sales transaction, and a breakdown of the types of charges involved. For example, a sample transaction of $4,821.40 is broken down into "Sales" $3889.80, "Drum Charge" $880.00, and "Sludge Disposal" $51.60. It appears that the "Drum Charge" line item was added to the AR ledgers in 1975 and the Sludge Disposal line item was added in 1976.

The "Drum Charge" entry appears to be self explanatory, where CRS provided the company with barrels or used CRS barrels to remove chemicals from a site. "Sludge Disposal" is presumably where sludge collected as part of the reclamation process was in turn disposed of at another location.

Please note that the 1980 AR entries follow a different format. They are more similar to the DI, in that they are typewritten lists that were periodically retyped. Presumably, the typewritten lists were periodically retyped as money owed to CRS was received.

Proposed Procedure

Initial review of the AR file and comparison to the DI file suggests that it is possible to correlate records of specific transactions. In other words, a ledger entry for a specific [illegible] date in the AR can potentially be correlated with an entry in the DI. By taking a sample of matched entries between the DI and AR for various PRPs, an appropriate proxy value of gallons can be calculated to correspond with a dollar amount.

Initial assumptions to develop this procedure are as follows:

- Any accounting record of a transaction correlated with a corresponding record in the DI will be omitted to avoid double counting.
- The EPA recognizes that all ledger entries present in the AR files do not necessarily reflect shipment of hazardous chemicals to the site. As this was a solvent recovery business, a certain number of ledger entries likely correspond to the sales of reclaimed solvents. Therefore, the EPA will take a conservative approach in assessing whether a PRPs presence in the AR ledgers is indicative of contribution to the site. It is assumed that entries including the line item of "sludge disposal" relate to the contribution of hazardous chemicals. Additionally, PRPs present in the AR that also have corroborative evidence from witness statements, affidavits, DI entries, 104(e) responses, and so forth, can be assumed to have contributed waste to the site.
- Additional adjustments may be necessary to refine the procedure. Upon complete analysis of the DI and AR evidence files for each PRP, additional documentation will be provided that lists findings, proposed proxy values, sample calculations, assumptions, and implementation plans.

3. Extrapolated Calculation of Purchased Scrap Solvent (Purchase / Payment Journals)

Similar to proxy calculations for the AR, portions of the Purchase / Payment Journals appear to contain evidence suggesting contributions of hazardous chemicals to the site. In particular, a line item entry of "Scrap Solvent for Reclamation" suggests that a particular company may have contributed waste to the site.

Background on Purchase / Payment Journals

The Purchase / Payment Journals are oversized record keeping books. The Journals typically contain the company name, amount of transaction, and ledger identification of the type of transaction. In relation to the site and type of evidence targeted, entries for "Scrap Solvent for Reclamation" appear to be most relevant. This line item appears to have been added in 1974. On journals dated 1970 through 1973, this line item appears to be reflected as "Material," although the ledgers do not specifically indicate that this was for scrap solvent for reclamation. Other entries of interest are "New Chemicals for Resale," "Operating Chemicals," and "Processing by Others." For "Scrap Solvent for Reclamation," these are presumably instances where CRS purchased used solvents from a company, refined them, and later was able to sell at a profit.

Proposed Procedure

Similar to the AR files, initial review of the Purchase Payment Journals and comparison to the DI file suggests that it is possible to match records of specific transactions. By taking a statistical sample of known transactions for various PRPs, an approximate proxy value of gallons can be calculated to correspond with dollar amounts.

Initial assumptions to develop this procedure are as follows:

- Any accounting record of a transaction correlated with a corresponding record in the DI will be omitted to avoid double counting.
- Only accounting records with the line item "Scrap Solvent for Reclamation" will be included in proxy calculations.
- As with the AR records, additional adjustments may be necessary to refine the procedure. Upon complete analysis of the DI and Purchase Payment Journal files, additional documentation will be provided that lists findings, proposed proxy values, sample calculations, assumptions, and implementation plans.

4. Other Available Information

During the course of the investigation, additional information has been developed which has resulted in additions to the PRP list and will supplement the calculation of volumetric share. This information includes, but is not limited to, volumetric information provided as part of 104(e) responses, witness statements, affidavits, and miscellaneous site files (other than accounting records). These sources of information will also be used to develop the Waste-In List / Volumetric Ranking and will be evaluated on a case-by-case basis.